The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte BRETT A. HURT and KEITH HENNING

_____

Appeal No. 2005-1618
Application No. 09/526,754

_____

ON BRIEF

_____

Before THOMAS, OWENS and MACDONALD, *Administrative Patent Judges.*

OWENS, *Administrative Patent Judge.*

DECISION ON APPEAL

This appeal is from the final rejection of claims 1-36, which are all of the pending claims.

THE INVENTION

The appellants claim a system, method, downloadable web page, content management server and computer readable medium for providing personalized content at an e-commerce customer's computer.   Claim 1, which claims the system, is illustrative:

1

1.   A system for providing personalized content to an
e-commerce customer at a customer computer, the system
comprising:

>   a web page stored on a client web server and that is
>   downloadable to the customer computer, the web
>   page comprising:
>
>   at least one image to be displayed on the customer
>   computer; and
>
>   personalized content delivery code to be executed by
>   the customer computer that causes the customer
>   computer to:
>
>   retrieve an identity of the e-commerce customer if
>   saved on the customer computer;
>
>   create an identity of the e-commerce customer if the
>   identity of the e-commerce customer is not saved
>   on the customer computer;
>
>   retrieve a session ID if saved on the customer
>   computer;
>
>   create a session ID if the session ID is not saved on
>   the customer computer or if the session ID that
>   is saved on the customer computer is expired; and
>
>   send a query to a content management server that
>   includes the identity of the client, the identity
>   of the e-commerce customer, and the session ID;
>
>   a content management server that receives the query
>   from a customer computer via a data network;
>
>   the content management server identifying personalized
>   content to be displayed to the e-commerce
>   customer on the customer computer, wherein the
>   personalized content is identified based upon
>   the identity of the client and the identity of the
>   e-commerce customer; and

the content management server returning a response to
the customer computer via the data network that
identifies the personalized content.

THE REFERENCES

Dedrick	5,724,521	Mar. 3, 1998	
Gerace	5,848,396	Dec. 8, 1998	
Angles et al. (Angles)	5,933,811	Aug. 3, 1999	
Courts et al. (Courts)	6,480,894	Nov. 12, 2002	
	(effective filing date Mar. 6, 1998)		

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows:

claims 1-31 over Angles in view of Gerace and Dedrick, and

claims 32-36 over Angles in view of Gerace, Dedrick and Courts.

OPINION

We reverse the aforementioned rejections. We need to

address only the independent claims, i.e., claims 1, 10, 17,

21 and 26.[1]

Each of the appellants' independent claims requires

retrieving a session ID if saved on a customer computer, and

creating a session ID if the session ID is not saved on the

customer computer or if the session ID that is saved on the

customer computer has expired. The examiner states that "Angles

---

[1] The examiner does not rely upon Courts for any disclosure
that remedies the deficiency in Angles, Gerace and Dedrick as to
the independent claims (answer, pages 12-13).

does not explicitly disclose utilizing a session ID" (answer, page 5), "Gerace does not explicitly disclose that the session ID is generated or stored on the user computer" (answer, page 5), and "Dedrick was not added to demonstrate a session ID itself" (answer, page 14). Thus, the examiner does not point out where that limitation is disclosed in any of the applied references.

The examiner argues that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace's session ID to Angles['] locally stored user tracking and targeting information. One would have been motivated to do this in order to provide Angles with a further means of tracking user activities for targeting" (answer, page 5). Gerace's disclosures that the User Session Object (37d) stores 1) the user's identification number passed by the user's computer upon logging in, 2) an indication of the user's Web browser software (col. 6, lines 46-55), and 3) the referring link from which the user accessed program 31 to which the user logs on and which records the user's selections and viewing activity with respect to agate information (col. 4, lines 1 and 12-13; col. 6, lines 46-55), indicate that the information recorded by the User Session Object (which also includes the session's starting and ending dates and times (col. 6, lines 46-48)) is stored elsewhere

4

than on the user's computer. As for Angles' alleged "locally

stored user tracking and targeting information", the examiner

does not point out where tracking and targeting information is

stored on the user's computer. The examiner may be referring to

Angles' cookie (col. 10, line 67 - col. 11, line 49), but the

examiner has not established that Gerace and Angles would have

fairly suggested, to one of ordinary skill in the art, including

a session ID in a cookie.

The examiner argues, in reliance upon Dedrick's figure 2 and

column 6, line 32 to column 8, line 40, that Dedrick discloses

"personalized content delivery code to be executed by the

customer computer" and "that a session identifying information is

generated on the customer computer by the personalized content

delivery code and stored on the customer computer" (answer,

pages 5-6). The relied-upon portion of Dedrick discloses a

client system (12) including a session manager (29) that

transfers data and control information to and from the components

of the client system and acts as an interface between the client

system and a metering server (14), and instructs the client

system's statistic compilation process (26) to compile aggregate

data stored in the client system's personal profile database (27)

when information is requested by the metering server (col. 6,

lines 55-67). The examiner argues that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Dedrick's locally operated session information tracking to Gerace's session ID and session tracking and to add both of these features to Angles['] user tracking and targeting with locally stored tracking and targeting information. One would have been motivated to do this in order to track and target a user in a manner that is more private or secure for that user" (answer, page 6). The examiner, however, does not explain how even if the applied references would have fairly suggested, to one of ordinary skill in the art, including in Angles' system what the examiner refers to as "Dedrick's locally operated session information tracking", the references would have led that person to retrieve a session ID if saved on a customer computer and create a session ID if the session ID is not saved on the customer computer or if the session ID that is saved on the customer computer has expired.

The examiner argues that "Angles discloses different configurations with locally stored user tracking information (Fig. 4; Fig. 11), Gerace discloses the user utilizing the Internet anonymously (col[.] 32, lines 52-57) and Dedrick discloses that information can not be placed on the server for

user privacy reasons (col[.] 11, lines 45-50). Therefore, it
would be obvious to one skilled in the art that Gerace's session
ID can be added to Angles['] and Dedrick's local user tracking
operations for the purposes of increased security or privacy"
(answer, page 16). The portion of Dedrick relied upon by the
examiner discloses that to maintain a user's privacy, the only
information contained in a metering server which identifies the
user is the user's identification and account balance. That
portion does not indicate that for privacy reasons, information
such as a session ID cannot be placed on a server. Moreover, as
pointed out above, the examiner has not established that Angles'
tracking and targeting information is stored on the user's
computer. Nor has the examiner explained how Gerace's disclosure
of automatically listing information on a network to allow
anonymous entries and replies would have led one of ordinary
skill in the art to save a session ID on a user's computer.

The record, therefore, indicates that the motivation relied
upon by the examiner for saving a session ID on a user's computer
comes solely from the description of the appellants' invention in
their specification. Thus, the record indicates that the
examiner used impermissible hindsight when rejecting the claims.
See *W.L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 1553,

220 USPQ 303, 312-13 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851

(1984); *In re Rothermel*, 276 F.2d 393, 396, 125 USPQ 328, 331

(CCPA 1960). Accordingly, we reverse the examiner's rejections.

DECISION

The rejections under 35 U.S.C. § 103 of claims 1-31 over

Angles in view of Gerace and Dedrick, and claims 32-36 over

Angles in view of Gerace, Dedrick and Courts, are reversed.

REVERSED

JAMES D. THOMAS)
Administrative Patent Judge)
)
)
Terry J. Owens) BOARD OF PATENT
TERRY J. OWENS) APPEALS AND
Administrative Patent Judge) INTERFERENCES
)
)
)
ALLEN R. MACDONALD)
Administrative Patent Judge)

TJO:hh

Appeal No. 2005-1618
Application No. 09/526,754

GARLICK HARRISON & MARKISON, LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727